

**Access to Microfinance & Improved Implementation of Policy
Reform
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**Enforcement and Administration
of the Law on Integrated Circuits**

Final Report

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Table of Contents

A. INTRODUCTION	1
B. IMPLEMENTING REGULATIONS.....	1
C. TRAINING	2
D. FUTURE ACTION.....	3
ANNEX I: LAW NO. () FOR THE YEAR 2000 - THE PROTECTION OF LAYOUT-DESIGNS OF INTEGRATED CIRCUITS LAW	4
ANNEX II: DRAFT REGULATIONS IMPLEMENTING THE PROVISIONS OF.....	12
THE PROTECTION OF LAYOUT-DESIGNS LAW FOR THE YEAR 1999 - (LAW NO. ____)12
DRAFT APPLICATION FORM FOR THE	21
REGISTRATION OF A LAYOUT-DESIGN	21
ANNEX III OVERHEADS	23

A. Introduction

The purpose of my consultancy was to assist in the development of implementing Regulations for the newly enacted Law for the Protection of the Layout-Designs of Integrated Circuits (Law No. 10 for the Year 2000), and to deliver training programs on integrated circuit protection to officials of the Industrial Property Department, businesses, business associations, academics, judges and lawyers. In addition, I responded to questions and provided information about computer-related intellectual property issues, in particular the protection of computer software and software applications, and the relationship between trademark and domain name protection.

This is the second summer (or part thereof) that I have spent in Amman working on the AMIR Project. I feel proud to be part of the work of AMIR and privileged to be associated with outstanding colleagues at the Industrial Property Department, at International Business Legal Associates (the local AMIR lawyers), and at AMIR. At the Industrial Property Department, my thanks go particularly to Samer Tarawneh, the newly appointed Department Director. At International Business Legal Associates, they go especially to Yasera Ghosheh and Maher Hamden, two very talented lawyers. And at AMIR, I am particularly grateful to Farhat Farhat, the outgoing Policy Component Leader, Brian O'Shea, his able successor, Nadia Qassim, the Policy Administrative Assistant who assures that every consultant's needs are met, and Lina Arafat, a very capable Event and Training Coordinator.

B. Implementing Regulations

Maher Hamden and Yasera Ghosheh of International Business Legal Associates, and I had extensive discussions on the contents of the implementing regulations for the new Law for the Protection of the Layout-Designs of Integrated Circuits (hereinafter referred to as the Integrated Circuits Law). A copy of the Law is attached to this report as Annex I. The discussions were based on draft regulations and a model application form that I prepared, which are attached to this report as Annex II. In drafting the regulations and application form, I drew inspiration not only from the Jordanian Law, but also from the U.S. system of statutory protection for the mask works of semiconductor chips (U.S. terminology for integrated circuit layout-designs). In particular, I relied on the U.S. mask work protection regulations found in 37 CFR 211.1 to 211.6, the U.S. Copyright Office's circular on "Federal Statutory Protection for Mask Works, and the Copyright Office's application form MW "for registration of a claim for protection in a mask work." I have provided copies of these background materials to International Business Legal Associates to aid in the preparation of the final draft of the implementing regulations as well as for use as training materials.

Our discussions on the draft regulations were very fruitful. I was flattered that my colleagues at International Business Legal Associates were amenable to all my substantive provisions, with one exception. Article 4B of the Integrated Circuits Law sets as a condition for protection that an application for registration be filed with the Industrial Property Department "within two years of the date of [the layout-design's] first commercial exploitation in any part of the world." Because the Law did not

define “first commercial exploitation,” I provided a definition in Article 2B of the regulations that included, “the date on which the integrated circuit incorporating the layout-design was distributed or *offered for distribution* anywhere in the world” (emphasis added). My colleagues felt that extending protection on the basis solely of an offer for distribution was both too broad and too tenuous and therefore sought to limit protection to those cases in which distribution had actually taken place. Because both the TRIPs Agreement and the Washington Treaty on Intellectual Property in Respect of Integrated Circuits are silent on the issue, I deferred to their judgement.

Now that we have reached agreement on the substantive provisions of the implementing regulations, International Business Legal Associates will have the charge of “Jordanizing” the draft, adding provisions that are common to all the intellectual property implementing regulations, and preparing an Arabic translation of the text. The text will then have to be submitted for review to the Industrial Property Department.

I look forward to reviewing the final draft and remain available to respond to questions, provide advice, or assist in any way that International Business Legal Associates, the Industrial Property Department, or AMIR deem appropriate.

C. Training

I carried out training on the administration and enforcement of the Integrated Circuits Law as follows:

- One day to officials of the Industrial Property Department, the Ministry of Industry and Trade’s WTO Unit, and other technical or scientific government institutes.
- One day to businesses, business associations, industrial property registration agents, and academics.
- One day to judges and lawyers.

I also had hoped to carry out one day of training on basic concepts and terminology with respect to the Integrated Circuits Law for media representatives, but because of scheduling conflicts and difficulties, that training had to be postponed.

For the most part – and not suprisingly – there is little familiarity with integrated circuit technology and concepts of integrated circuit protection in Jordan. Therefore, I devoted a large part of my training to defining an integrated circuit, explaining the history of integrated circuit legislation, and discussing the requirements of protection. I also spent a considerable amount of time placing the concept of integrated circuit protection into the broader context of intellectual property protection, and talking about the prospective role of integrated circuit protection for Jordan.

As can be seen from Annex III, the overhead slides I used in my training sessions were a mixture of examples of layout-designs, photos of integrated circuits and of the products that depend on them, examples of integrated circuit manufacturing facilities, and straightforward legal requirements and provisions. Based on participant response, I believe that people in all the training sessions most appreciated the slides that

illustrated what an integrated circuit is and how it is made, since without an understanding of the basic technology, an understanding of the legal provisions is impossible. So that the slides and other training materials I relied upon can be used in future training opportunities, I have provided copies both to the Industrial Property Department and International Business Legal Associates.

Given the participants' general lack of familiarity with the subject matter, I was particularly impressed with the interest expressed and the caliber of the questions asked. At the current time, there is little likelihood that the new Integrated Circuits Law will play a significant role in Jordan. Although it is important that a cadre of individuals have a thorough understanding of integrated circuit protection, for most others, having a basic understanding of integrated circuit technology and of the concepts and terminology of the Law is probably sufficient, at least for the time being. I therefore feel confident that the training sessions sufficiently met the immediate needs of most participants.

D. Future Action

I remain available to assist International Business Legal Associates and the Industrial Property Department in finalizing the implementing regulations to the Integrated Circuits Law.

Other work that remains under the current Scope of Work includes: a seminar to acquaint media representatives with basic principles and terms of integrated circuit protection; designing a U.S. or third-country training program; and developing the capacity of a local trainer. I look forward to assisting AMIR in carrying out these tasks.

The Annexes follow.

Annex I

Law No. () For The Year 2000

The Protection of Layout-Designs of Integrated Circuits Law

Article (1)

This law shall be known as “ The Protection of Layout- Designs of Integrated Circuits Law for the year 2000”, and shall come into force thirty days after the date of its publication in the Official Gazette.

Article (2)

The following words and phrases, wherever mentioned in this Law shall have the meanings designated hereunder, unless otherwise indicated by context:

Ministry: Ministry of Industry and Trade.

Minister: Minister of Industry and Trade.

Integrated Circuit: A product, in its final form or intermediate form, in which the elements, at least one of which is an active element, and whereby the interconnections are integrally formed in and/or on a piece of material, which is intended to perform an electronic function.

Layout-Design: A three-dimensional disposition of the elements composing an integrated circuit, or a three-dimensional disposition specifically prepared to produce an integrated circuit intended for manufacture.

Protected Layout-Design: A layout-design that is accorded protection pursuant to the provisions of this Law.

Right Holder: The creator of a protected layout-design or his successor in title.

Registrar: The Registrar of Layout– Designs of Integrated Circuits in the Ministry, nominated by the Minister.

Register: The Register of Layout Designs of Integrated Circuits.

Article (3)

The Register

A- A Register known as the (Layout-Designs of Integrated Circuits Register) shall be established at the Ministry, under the supervision of the Registrar, in which

records shall be maintained of all the information related to layout-designs, names of right holders, their addresses, certificates issued therein, and any changes thereto resulting from procedures and legal acts thereof, including the following:

- 1- Any assignment, transfer of ownership, or license granted by the right holder to others.
 - 2- The hypothecation or attachment placed upon a layout-design or any restriction on its use.
- B- The Register shall be available for the public, in accordance with Instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.
- C- The Ministry may maintain computerised records for the registration of layout-designs and related data thereto. Such data and documents retrieved therefrom and certified by the Registrar, shall be valid proof against others, unless proven otherwise by the interested party.

Registration of Lay-Out Designs

Article (4)

A layout-design may be registered if the following conditions are met:

- A- If it is original, in the sense that it is the result of its creator's own intellectual effort, and which is not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of its creation.
- B- If an application for the registration of a lay-out design is filed in the Kingdom within two years from the date of the first commercial exploitation thereof, anywhere in the world.

Article (5)

The right of registering a Layout Design of Integrated Circuits shall be as follows:

- A- To the creator or to whomever the right of the layout design passes thereafter.
- B- To the persons participating in the creation, if it is the result of their joint effort, provided that it is registered jointly and equally, unless they agree otherwise.
- C- To the creator who is the first to file an application for registration, if the creation of the layout design is independently made by more than one person.
- D- To the employer, if the creation is a result of an employment contract, which requires the employee to accomplish such a creation, unless otherwise stipulated by contract.

Article (6)

An application for the registration of a layout-design shall be submitted to the Registrar, on the form designated for this purpose, attached with all the required information, samples, and drawings needed. The application for registration of a layout-design shall relate to only one layout-design.

Article (7)

- A- The date the Registrar receives the application shall be considered the filing date, provided that the application fulfills all the legal requirements, and attached thereto all the data identifying the identity of the applicant, and the illustrative data of the layout design.
- B- Where the Registrar finds that the application has not fulfilled the requirements stated in paragraph (A) of this Article, he shall invite the applicant to fulfill such requirements, or make the necessary amendments, provided that such amendments do not exceed the information disclosed in the original application, and within the period determined in the Regulation issued in accordance with the provisions of this Law. The date of fulfilling or amending such requirements shall be the date of filing the application. Otherwise, the Registrar shall issue a decision in this regard that would deem the applicant to have abandoned the application. The Registrar's decision may be appealed to the High Court of Justice within sixty days from the date of its notification.

Article (8)

- A- If the application for the registration of the layout-design fulfils the entire legal conditions and requirements, the Registrar shall issue his decision accepting the application, and collect the prescribed fees.
- B- The Registrar shall announce the acceptance of the application in the Official Gazette. Others may oppose such acceptance within ninety days from the date of publication. The procedures of opposition shall be determined in a Regulation issued pursuant to this Law.
- C- If no opposition is submitted against the acceptance of the application for registration, the Registrar shall adopt a decision for registering the layout design, and issue a certificate thereto, after collecting the prescribed fees.

Protection of Lay-Out Designs

Article (9)

- A- The right-holder in a layout-design, after registration thereof, shall have the right to protect the layout-design, by preventing others not having his consent from committing the following:
1. The act of reproducing, whether by incorporation in an integrated circuit or otherwise, a protected layout- design, in its entirety or any part thereof.
 2. The act of importing, selling or otherwise distributing, for commercial purposes, a protected layout-design, or an integrated circuit in which a protected layout-design is incorporated, or any article incorporating

such a circuit in as much as it contains in a constant manner an unlawfully reproduced layout- design.

- B- Any person committing any of the acts stated in Paragraph (A) of this Article shall be considered committing an act of infringement upon the right holder's rights and shall be subject to legal liability.
- C- A lay-out design that consists of a combination of elements and interconnections that are commonplace, taken as a whole, had fulfilled the originality requirements and other conditions stated in this Law, shall be accorded the protection stated in Paragraph (A) of this Article.

Article (10)

Notwithstanding what is stated in Article (9) of this Law, the following acts shall not be considered an infringement of the rights of the right holder in a protected layout-design, without the authorisation thereof:

- A- To perform the act of reproduction referred to in Clause (1) Paragraph (A) of Article (9) in any of the following cases:
 - 1-Where the act of reproduction is performed for personal purposes, or for the sole purpose of evaluation, analysis, research, or teaching.
 - 2-Where the act of reproduction relates to a part of the layout- design, which does not meet the requirement of originality.

2nd- If the act relates to the following:

- 1- Another layout-design that meets the requirements of originality which is created as a result of an evaluation or analysis pursuant to Clause (1) Paragraph (A) of this Article.
- 2- Another identical layout-design that meets the requirements of originality which is independently created.
- 3- To perform any act referred to in Clause (2) Paragraph (A) of Article (9) of this Law in respect of a layout- design or integrated circuit, in which a layout-design is incorporated, that has been put on the market by, or with the consent of the right holder.
- 4- To perform any act stated in Clause (2) Paragraph (A) of Article (9) of this Law, in respect of an integrated circuit incorporating an unlawfully reproduced layout-design, or in respect of an article incorporating such a circuit, if the person performing such an act did not know and had no reasonable grounds to know, when acquiring the said integrated circuit or article, that it incorporates an unlawfully reproduced layout design, provided that Article (11) of this Law is taken into consideration.

Article (11)

If a person commits any of the acts stated in Clause (4) Paragraph (B) of Article (10) of this Law, and has been notified by the right holder with a notarised notice of such, he may perform any of the acts with respect to the stock on hand or contracted upon prior to the time of notification, provided that the right holder is reimbursed with an

amount equal to the royalties such as would be payable under a freely negotiated license for such use.

Article (12)

- A- The protection of a layout design shall commence on the date of filing an application for registration in the Kingdom.
- B- The term of protection of a layout-design shall be ten years counted from the date of the first commercial exploitation of a layout-design anywhere in the world, provided that such term does not, in any case, exceed fifteen years from the date of the creation of the layout-design.

Article (13)

1st-Any interested party may request the Registrar to cancel the registration of a layout-design in any of the following cases:

- 1- The layout-design is not registrable, for not fulfilling any of the conditions stated in Article (4) of this Law.
 - 2- The application for registration does not include the necessary information, or where the documents and information attached thereto are incorrect, or in violation of the provisions of the Law.
- B- The Registrar's decision with respect to the request of the cancellation of a registered lay-out design pursuant to paragraph (A) of this Article, may be appealed to the High Court of Justice within sixty days from the date of notification.

Transfer, Hypothecation and Attachment of Layout- Designs**Article (14)**

- A-1- The ownership of a layout-design may be transferred completely or partially, with or without consideration, and may be subject to hypothecation or attachment, which shall be published, in the Official Gazette.
 - 2- Transfer of ownership or hypothecation of a layout design shall not be deemed as valid proof against others prior to its recording in the Register.
- B- Rights in a layout-design may pass by succession.

Article (15)

The procedures of transfer of a layout-design, its hypothecation and attachment, and all other legal acts related thereto, shall be determined in Instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.

License To Exploit Layout-Designs**Article (16)**

The right holder may grant others license to exploit the protected layout-design by virtue of a written contract to be recorded with the Registrar, who shall keep the provisions of confidentiality in the contract.

Article (17)

The Minister may grant licenses for the exploitation of a layout-design to other than the right holder of a layout design and without his consent, in any of the following cases, exclusively:

- A- If use by the relevant government bodies, or others who are licensed by such bodies to use the layout-design, is for national security, emergency situations, or public non-commercial benefit, provided that the right-holder is notified whenever possible.
- B- If it is found by a judicial or administrative decision that the right-holder practices his rights in a manner that deters others from fair competition.

Article (18)

The following shall be taken into account upon issuing licenses in accordance with Article (17) of this Law:

- A- The merit of the application for license on a case by case basis.
- B- The scope and duration of the license shall be limited to the purpose for which the license is granted. In case the license application is in respect of semi-conductor technology, a license shall only be granted for public non-commercial use or to remedy a practice determined by a judicial or administrative authority to be anti-competitive.
- C- The license to exploit a layout-design shall not be exclusive.
- D- The license shall not be capable of assignment.
- E- The license shall be granted to meet the local market demands, except for what is stated in Paragraph (B) of Article (17) of this Law.
- F- The right-holder shall be paid by the Licensee adequate remuneration, which takes into account the economic value of the layout-design license.

Article (19)

The Minister may, upon his own initiative or upon the request of the right -holder, cancel the license granted in accordance with Article (17) of this Law, if the reasons for granting such license are no longer applicable, and whereby reoccurrence is not probable, without prejudice to the related rights of others having interest in the license granted.

Article (20)

The procedures of licensing, to be granted pursuant to the provisions of Article (17) of this Law, shall be determined in a Regulation issued in accordance with this Law.

Article (21)

The interested party may challenge any decision issued by the Minister with respect to licensing to the High Court of Justice, within sixty days from the date of notification or acknowledgement thereof, as the case may be.

Provisional Measures and Penalties**Article (22)**

A- The right holder when filing a civil lawsuit to prevent the infringement upon the layout-design, or during the course of the hearings, may petition the competent Court to take any of the following measures, provided that the petition is attached with a bank guaranty or cash deposit accepted by the Court:

1. Cease the infringement.
2. Place a provisional seizure on the articles, subject of infringement, wherever found.
3. Preserve the relevant evidence to the infringement.

B-1- The right holder may, prior to filing a lawsuit, petition the Court to take any of the measures provided for in Paragraph (A) of this Article, without notifying the counter-party, provided that the petition is attached with a bank guaranty or cash deposit accepted by the Court. The Court may approve the petition if the right holder proves any of the following:

- That the layout design had been infringed upon.
- That such infringement is imminent and is likely to cause damages of irreparable harm.
- That there is a demonstrable risk of evidence being destroyed or disappeared.

2- If the right-holder fails to file the lawsuit within eight days from the date the Court approves his petition, all measures taken in this regard shall be nullified.

3- The counter-party may appeal the court's decision with respect to the provisional measures to the Court of Appeal within eight days of his notification or acknowledgement thereof. The Court's decision in this regard shall be final.

4- The counter-party may claim compensation for damages he suffered, if he proves that the plaintiff's claims with respect to the provisional measures are invalid, or if the plaintiff failed to file the lawsuit within the specified period in Clause (2) of this Paragraph.

C- The defendant may claim compensation for damages he suffered, if the Court decides that the plaintiff's claims are invalid.

D- The Court may seek, in all case, experts opinion.

- E- The Court may order the seizure of the articles subject matter of the infringement, tools, and main materials used in infringing the layout-designs incorporated in such articles. The Court may also order destruction of such articles, tools and materials, or use of such outside the channels of commerce.

Article (23)

The Council of Ministers shall issue the necessary Regulations for implementing the provisions of this Law, including the prescribed fees to be collected.

Article (24)

The Prime Minister and the Ministers shall be responsible for implementing the provisions of this Law.

Annex II

DRAFT REGULATIONS

IMPLEMENTING THE PROVISIONS OF THE PROTECTION OF LAYOUT-DESIGNS LAW

FOR THE YEAR 1999

(LAW NO. ____)

1. Definitions

A. For the purposes of these Regulations, the terms *Ministry*, *Minister*, *integrated circuit*, *layout-design*, *right holder*, *Registrar*, and *Register* have the meanings set forth in Article 2 of the Protection of Layout-Designs Law for the Year 1999.

B. Hereinafter the *Protection of Layout-Designs Law for the Year 1999* will be referred to in these Regulations as the “Law”.

2. Application for Registration

A. In accordance with Article 6 of the Law, applications for the registration of layout-designs of integrated circuits must be submitted on the prescribed form, a copy of which is annexed to these Regulations, and must include the following:

1. the name and address of the applicant;
2. a statement identifying the applicant's legal interest in the layout-design;
3. a title identifying the layout-design;
4. the date of creation of the layout-design;
5. the date, place, and nature of first commercial exploitation of the layout-design; and
6. a statement generally describing the basis for the claim of originality of the layout-design.

Copies of the form are available free of charge upon request to the Registrar of Layout-Designs of Integrated Circuits at the Ministry of Industry and Trade.

B. The date of creation of a layout-design will generally be understood to be the date on which all work toward the development of the layout-design was completed. The date of first commercial exploitation of a layout-design will generally be understood to be the date on which the integrated circuit incorporating the layout-

design was distributed or offered for distribution anywhere in the world. If the layout-design has not been incorporated in an integrated circuit, the date of first commercial exploitation will be understood to be the date on which the layout-design was distributed or offered for distribution anywhere in the world.

C. Applications must be accompanied by the deposit of samples and drawings that identify the layout-design pursuant to Article 3, below.

3. Deposit of Samples and Drawings

A. In order to identify the layout-design, the applicant must accompany his or her application with the following:

1. four samples of the integrated circuit in which the layout-design was first commercially exploited. Defective integrated circuits may be deposited provided that the layout-design would be revealed in reverse dissection of the integrated circuits. If the layout-design has not been incorporated in an integrated circuit, the applicant must submit a statement to that effect; and
2. a visually perceptible drawing or representation of each layer of the layout-design consisting of one of the following:
 - a. sets of plastic color overlay sheets;
 - b. drawings or plots in composite form on a single sheet or on separate sheets; or
 - c. a photograph of each layer of the layout-design.

B. The drawings or representations of the layout-design must be reproduced on material that can be readily stored in an A4 format, and they must be reproduced at a magnification sufficient to reveal the basic circuitry design of the layout-design, which in all cases must be at least 20 times magnification.

C. Parts of the samples or drawings that relate to the manner of manufacture of the integrated circuit and/or that contain information in which trade secret protection is asserted may be excluded from the deposit. The parts submitted, however, must be sufficient to permit identification of the layout-design. The parts excluded may be as follows:

1. with respect to the samples of the integrated circuit in which the layout-design is incorporated, no more than two layers of each five or more layers of the layout-design; and
2. with respect to the drawings, the parts blocked out or otherwise withheld must be less than the parts submitted.

D. All samples and drawings deposited, including samples and drawings deposited in connection with applications that have been refused registration, become the property of the Ministry. Where a layout-design has been granted registration, the samples and drawings deposited will be retained under the control of the Registrar throughout the period of protection. After the period of protection has expired, it is

within the joint discretion of the Registrar and the Minister to order the destruction or other disposition of the samples and drawings.

4. Amending of Applications

A. In accordance with Article 7 of the Law, where the Registrar invites the applicant to complete or amend his or her application, the applicant will have thirty (30) days from receipt of the Registrar's notification to submit the necessary completions or amendments.

B. The Registrar may grant an additional period of up to thirty (30) days to an applicant who shows good cause in writing as to why the initial thirty-day period should be extended. Under no circumstances, however, may the additional period of time for completing or amending an application exceed sixty (60) days.

5. Publication and Opposition

A. In accordance with Article 8 of the Law, the Registrar will, following receipt of the application fee as prescribed in Article 15, below, announce the acceptance of the application in the Official Gazette by publishing the following:

1. the name and address of the applicant;
2. the applicant's legal interest in the layout-design;
3. the title of the layout-design;
4. the date of creation of the layout-design;
5. the date, place, and nature of first commercial exploitation of the layout-design;
6. the applicant's statement describing the basis for the claim of originality of the layout-design;
7. the date of acceptance of the application;
8. a notice of opposition, stating that any interested party may, for the purpose of opposing the application, inspect the application, samples, and drawings and make copies of the application and drawings in accordance with normal Ministry procedures; and
9. the deadline for filing opposition with the Registrar.

B. Any interested party who believes that he or she would be damaged by the registration of a layout-design of an integrated circuit may oppose the same by filing an opposition addressed to the Registrar. The opposition need not be verified, and may be signed by the opposer or the opposer's attorney, or other authorized representative.

C. The opposition must be accompanied by the required opposition fee, as provided in Article 15, below, and must set forth the following:

1. a statement showing why the opposer believes it would be damaged by the registration of the opposed layout-design; and
2. the grounds for opposition.

A duplicate copy of the opposition, including any exhibits, must be filed with the opposition.

D. When an opposition in proper form has been filed and the correct fee has been paid, the Registrar will prepare a notification that identifies the proceeding and the application involved and designates a time, not less than thirty (30) days from the mailing date of the notification, within which the applicant must file an answer to the opposition. A copy of the notification, together with the duplicate copy of the opposition and any exhibits, must be sent to the applicant. Another copy of the notification must be sent to the opposer or to his or her attorney or authorized representative.

E. If no answer is filed within the time set, the opposition may be decided as in the case of default.

F. The answer must state the applicant's responses or defenses to the claims asserted in the opposition. If the applicant is without knowledge or information sufficient to form a response as to the truth of any statement in the opposition, the applicant may so state, and this will have the effect of a denial of the claim asserted.

G. Within sixty (60) days of receipt of the answer, the Registrar will render a decision on the basis of the information contained in the opposition and answer and will send notification of that decision to the applicant and the opposer. If the grounds for opposition is that the layout-design is not entitled to registration because it fails to meet the requirements of Article 4A of the Law, the Registrar may appoint one or more technical experts in layout-designs of integrated circuits to assist in evaluating the validity of the opposition. If the Registrar determines that sufficient information is lacking to render a decision, the Registrar may request such information from the opposer and applicant or may require the opposer and applicant to appear before him. In such case, the Registrar will set appropriate deadlines for the submission of information or for the appearance before him, but in no case may such a deadline exceed thirty (30) days from the date of the Registrar's determination.

H. The applicant or opposer may appeal the Registrar's decision to the High Court of Justice within sixty (60) days from the date of the decision's notification.

6. Registration

A. In accordance with Article 8 of the Law, registration of a layout-design follows the expiration of the period for submitting an opposition where no opposition has been submitted, or where an opposition has been submitted, following the determination that the grounds for opposition are invalid.

B. Following receipt of the registration fee prescribed in Article 15, below, the Registrar will issue a decision for the registration of the layout-design by ordering the following information to be published in the Official Gazette:

1. the name and address of the applicant;
2. the applicant's legal interest in the layout-design;
3. the title of the layout-design;
4. the effective date of registration;
5. the date of expiration of the registration; and
6. any other information as the Minister may duly prescribe.

C. The Registrar will also grant a Certificate of Registration to the applicant that includes the same information as prescribed in Paragraph B, above.

D. The time period within which the Registrar must comply with the requirements of Paragraphs B and C, above, is thirty (30) days following either:

1. the expiration of the period for submitting an opposition where no opposition was submitted; or
2. the issuance of a final decision that any opposition submitted was invalid.

7. Corrections

A. In order to correct any clerical error in the Register, or to reflect any change in the information entered in the Register, the Registrar may, at his own impetus or at the request of the right holder, amend an entry in the Register.

B. In order to correct any clerical error in the Certificate of Registration, the Registrar may, at his own impetus or at the request of the right holder, amend the Certificate of Registration or issue a corrected certificate.

8. Applications for Cancellation of Registration

A. In accordance with Article 13 of the Law, the Registrar will have ninety (90) days to issue a decision in response to an application for cancellation of a registration.

B. An application for cancellation of a registration must set forth the following:

1. a statement of the applicant's interest; and
2. the grounds for cancellation.

The application need not be verified, and may be signed by the applicant or the applicant's attorney, or other authorized representative. The applicant will also submit a duplicate copy of the application

C. Following the submission of an application for cancellation of a registration to the Registrar, the Registrar will notify the right holder thereof and send the right holder a copy of the application. The Registrar will provide the right holder

an opportunity to intervene by submitting a statement as to why the right holder believes the application for cancellation should be denied. The right holder will have thirty (30) days following notification to submit such a statement.

D. The Registrar may appoint one or more technical experts in layout-designs or integrated circuits to assist in evaluating the validity of the application for cancellation of a registration.

E. Where the Registrar determines that a registration should be cancelled, the cancellation will have effect *ab initio*.

9. The Register

A. In accordance with Article 3 of the Law, the Layout-Designs of Integrated Circuits Register will be established and maintained in the same manner as other intellectual property registers established and maintained at the Ministry.

B. No special forms will be required for the recording of data in the Register.

C. The Register will be available to the public on the same terms and conditions as other intellectual property registers maintained at the Ministry. Those terms and conditions will be provided in Instructions issued by the Minister and published in the Official Gazette.

10. Recording of License Agreements

In accordance with Article 16 of the Law, the terms and conditions applicable for the recording of license agreements to exploit other protected intellectual property will be applied to the recording of license agreements to exploit protected layout-designs

[ALTERNATIVE LANGUAGE TO ARTICLE 10 IF NO TERMS OR CONDITIONS EXIST FOR THE RECORDING OF OTHER INTELLECTUAL PROPERTY LICENSES:

A license agreement will be recordable under Article 16 of the Law if it is complete by its own terms and bears the actual signatures of the persons who executed it. Alternatively, the agreement may be recorded if it is a legible photocopy or other legible facsimile reproduction of the signed agreement and is accompanied by a sworn certification or an official certification that the reproduction is a true copy. Any sworn certification accompanying a reproduction must be signed by at least one of the parties to the signed agreement or by an authorized representative of that person.]

11. Licenses Granted by the Minister

[NOTE: The provisions of this regulation must follow the provisions for compulsory licensing (use without authorization of the right holder pursuant to Article 31 of the TRIPs Agreement) issued under the Patent Law. If the Patent Law Regulations have already been drafted, the relevant patent language should be adapted and used here as well. In such case, the following will not be necessary.]

A. In accordance with Article 17 of the Law, any interested party who believes that it is capable of exploiting a registered layout-design owned by another and that the conditions of Article 17A or B of the Law with respect to that layout-design have been met may apply to the Minister for a license to exploit the layout design. The application need not be verified, and may be signed by the applicant or the applicant's attorney, or other authorized representative.

B. The application addressed to the Minister must set forth the following:

1. a statement showing why the applicant believes the conditions of either Article 17A or Article 17B of the Law have been met. If the grounds for the application are that the conditions of Article 17B have been met, the applicant must, whenever possible, include a copy of the judicial or administrative decision holding that the right holder practices his or her rights in a manner to deter third parties from fair competition. Where the applicant is unable to include a copy of the decision, the application must include the reasons therefor;
2. a statement showing why and how the applicant believes it is capable of exploiting the layout-design;
3. a statement showing in what manner and for what purpose the applicant intends to exploit the layout-design;
4. if the grounds for the application are that the conditions of Article 17A of the Law have been met, a statement indicating that exploitation of the layout-design would be to meet local market demands only; and
5. a statement attesting that, if granted, the applicant agrees to pay the right holder adequate remuneration for the license, taking into consideration the economic value of the layout-design, as determined by the Minister.

B. Upon receipt of an application based on Article 17A of the Law, the Minister will make every effort to notify the right holder as promptly as reasonably practicable. Where time permits, the Minister will give the right holder an opportunity to respond in writing to the application and will set a deadline for submission of the response. The response may include, but need not be limited to, the reasons why the right holder believes the license should not be granted and/or the terms on which the license should be limited.

C. The Minister will issue a decision on the grant of the license in accordance with Article 18 of the Law. The Minister may appoint one or more experts in layout-designs of integrated circuits to assist in evaluating the technical merits of the application and, if a decision to grant the license is reached, to assist in determining the scope and duration of the license and the terms of remuneration.

D. If the Minister determines that a license should not be granted, he will state the reasons therefor in a decision to be communicated to the applicant. The Minister will also send a copy of the decision to the right holder if the right holder had received previous notification of the application.

E. If the Minister determines that a license should be granted, he will state the reasons therefore in a decision that will also include the following:

1. a statement delineating the scope and duration of the license;
2. a statement that the license is not exclusive and that other parties capable of exploiting the layout-design are free to apply to do so;
3. a statement that the license may not be assigned;
4. a statement setting the remuneration that the applicant must pay the right holder. The remuneration will ordinarily, but not necessarily, be set in terms of royalty payments; and
5. the effective date of the license.

F. The Minister will communicate the decision prescribed in Paragraph E, above, to the applicant and the right holder. The Minister will also record the decision in the Register and publish it in the Official Gazette.

12. Cancellation of Licenses Granted by the Minister

[The NOTE concerning Article 11 applies here as well.]

A. In accordance with Article 19 of the Law, the right holder may, at any time, submit a request to the Minister to annul the license granted in accordance with Article 17 of the Law. The request shall include the following:

1. a statement why the reasons for granting the license are no longer applicable;
2. a statement why the reoccurrence of the reasons for the grant is not probable; and
3. if applicable, a statement demonstrating that the related rights of third parties having an interest in the license will not be prejudiced.

B. When the Minister receives such a request, or, in the absence of a request, when the Minister has reason to believe that the grounds for annulling the license in accordance with Article 19 of the Law exist, the Minister will notify the holder of the license and will designate a time, not less than thirty (30) days from the mailing date of the notification, during which the holder may respond.

C. The Minister will issue a decision on the cancellation of the license within ten (10) days of the receipt of the license holder's response and may seek the advice of an expert in layout-designs of integrated circuits in making the decision. In the event the license holder fails to respond within the time limit designated, the Minister may conclude that the license holder does not object to the cancellation of the license.

13. Transfer, Hypothecation and Seizure

In accordance with Article 15 of the Law, the Minister may provide that the procedures concerning the transfer, hypothecation, and seizure of patents and/or trademarks will be applicable to the transfer, hypothecation, and seizure of layout-designs of integrated circuits.

14. Infringement, and Provisional Measures and Penalties

Actions brought under Articles 9B and 22 of the law will be adjudicated in accordance with the Code of Civil Procedure applicable in the Kingdom.

15. Fees

A. The following fees will be required:

1. application fee as referred to in Article 5A, above..... JD 50
2. opposition fee as referred to in Article 5C, above..... JD100
3. registration fee as referred to in Article 6B, above..... JD 25
4. such other fees as the Council of Ministers determines.

B. Fees required by the Ministry for the recordation of documents, the issuance of duplicate certificates, and other relevant matters will be required also with respect to layout-designs of integrated circuits.

C. All fees must be paid in the form of money order, check, or bank draft. Fees paid are not subject to refund.

Draft Application Form for the Registration of a Layout-Design

1. Title of the layout-design:

[Every layout-design must have a title for purposes of identification. The title of the layout-design may be the title of the integrated circuit in which the layout-design is embodied.]

2. Name and address of the applicant:

3. Name and address of contact person if different than the applicant:

4. Applicant's legal interest in the layout-design:

[An indication of whether the applicant is the creator of the layout-design, the employer of the creator, a group of creators if the layout-design was the result of joint effort, someone who acquired the rights from the creator, the legal representative of a deceased creator, etc.]

5. Date of creation of the layout-design:

[This information is important because the period of protection may not exceed fifteen years from the date of creation of the layout-design.]

6. Date, place, and nature of the first commercial exploitation of the layout-design:

[The period of protection of a layout-design is ten years from the date of first commercial exploitation. The nature of the first commercial exploitation will generally be the distribution to the public or the offer to distribute an integrated circuit incorporating the layout-design.]

7. Nature of the deposit:

[A description for purposes of identification of the samples and drawings that have been deposited;
for example, "integrated circuits plus photos of seven layers of the layout-design".]

8. Nature of the claim of originality:

[A brief general description of what constitutes the basis for originality of the layout-design. For example, if the layout-design consists of a combination of commonplace elements that are combined in a way that is original, a statement of why it is original.]

9. Certification and Signature

Annex III

Overheads